

•Approval and Oversight of State Solid Waste Management Plans

- **Federal Requirements for Approval**
- **Withdrawal of Approval and Consequences**
- **EPA Regional Oversight**
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Federal Requirements for Approval

- Guidelines for Development and Implementation of State Solid Waste Management Plans established under RCRA Subtitle D have been codified in 40 C.F.R. Part 256. (FR notice July 31, 1979; amended Sept 23, 1981.)
- The minimum requirements for approval of State plans are (§256.01(b)):
 - Identify responsibilities of State, local, and regional authorities in the implementation of the plan; the distribution of Federal funds to authorities responsible for development and implementation of the plan; and the means for coordinating regional planning and implementation under the plan;
 - Prohibit the establishment of new open dumps;
 - Provide for the closing or upgrading of all existing open dumps;
 - Provide for the establishment of state regulatory powers as necessary to implement the plan;
 - Allow local government to enter into long term contracts for the supply of solid waste to resource recovery facilities; and
 - Provide for waste management (paraphrased), “ . . . in a manner that is environmentally sound.”
- The state plan shall cover a minimum of a five-year period from the date submitted to EPA for approval (§256.02(d)).
- The plan shall contain procedures for revision (§256.03(d)). The State plan shall be revised by the state, after notice and public hearings, when EPA, by regulation, or the State determines that:
 - The plan is not in compliance with the requirements of the guidelines of Part 256;
 - Information has become available which demonstrates the inadequacy of the plan; or
 - Such revision is otherwise necessary.
- The State plan can be revised and re-adopted not less frequently than every three years (§256.03(e)).
- Both RCRA §4007 and 40 C.F.R. §256.04(b) state that EPA shall, “. . . review approved plans from time to time.” (No requirements for submittal of state plan updates or revisions to EPA are specified unless EPA identifies adequacy as an issue.)

Withdrawal of Approval and Consequences

- If EPA determines that revisions or corrections are necessary to bring the plan into compliance with all of the requirements of the guidelines, EPA shall notify the state, and provide an opportunity for revisions and corrections and for an appeal and public hearing. If the plan continues to remain out of compliance, EPA shall withdraw approval of the plan.
- Upon withdrawal of approval of a state plan, EPA shall withhold federal financial aid and technical assistance under subtitle D until approval is reinstated (§256.04(e)). Partial plan approval while pursuing compliance is allowable under certain conditions.

EPA Regional Oversight

- We have checked with other Regions to determine how their respective state plan changes are initiated. Region 5 has the most detailed records which revealed that no federal funding has been available for state plans since 1981. (Region 5 has a letter on file to the State of Indiana stating that no federal funds would be available in FY82. Current staff members that have been active in the program since 1990 do not remember, nor can they document, any link between federal funding and state plan development in addition to the letter on file to the State of Indiana).
- According to their records, Region 5 has not approved any state plan since 1981. Region 3 has reported a similar history.
- Even without financial incentive, states do modify their solid waste plans but are not obliged to do so. In Region 2, NY and NJ have changed their plans at least twice in the past 10-12 years. The driver is usually a change in administration, heralding a fresh look at how business is conducted. NY and NJ rarely formally notify us about changes. Rather this information is disseminated at meetings.
- Puerto Rico SWMA has updated its solid waste management plan several times over the past decade (1995, 1999, 2004). As noted above, there are no regulatory requirements for state submittal to EPA, and not unusual for states.

Recap/Recommendations

- The nexus between the State Solid Waste Management Plan and determination of MSW Landfill Program adequacy lies with common requirements addressing open dumps. The Solid Waste Management Plan as per Part 256 required preparation of an open dump inventory with concomitant identification of closure/upgrading plans; MSW Landfill Program adequacy determination involved submission of a narrative that described, among other elements, the universe of landfills with description of status (remaining open dumps, permitted, closed with final cover, inactive with no final cover, etc.).

- Solid Waste Management Plans historically were connected to funds dispensed upon favorable federal review and approval. This connection ceased to exist after 1981. However, states continue to revise their plans periodically.
- Although states are not obligated to formally submit revised plans for federal review and approval, EPA considers such review as a valuable opportunity to assess the relative strengths and weaknesses of solid waste management planning (both from the point of view of reduction of generation as well as end of life management).
- Puerto Rico's original Plan submission was a complement (not a requirement) of Program approval. The original submission was judged to strengthen their application for Program adequacy.
- Since Program approval (8/17/94), changes have been made to both the Plan and regulations submitted as part of the Program approval package.
- The Plan (and the Program) should be carefully reviewed to identify changes and to assess Plan (and Program) adequacy.
- RPB and RCB should jointly review the Plan.